

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

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|-------------------------------------|---|-------------------------------|
| DUSTIN ISENHART, et al. |) | |
| |) | |
| Plaintiffs, |) | |
| |) | Case No. 16-cv-193 SMY/RJD |
| v. |) | |
| |) | |
| NRT TECHNOLOGY CORP., et al. |) | The Honorable Staci M. Yandle |
| |) | |
| Defendants. |) | |
| |) | |

**PLAINTIFF’S OPPOSITION TO DEFENDANT’S MOTION FOR LEAVE TO FILE
REPLY IN SUPPORT OF MOTION TO DEPOSIT FUNDS UNDER RULE 67**

Comes Now, Plaintiff, by and through his undersigned counsel, and for his Opposition to Defendant’s Motion for Leave to File Reply in Support of Motion to Deposit Funds Under Rule 67, states as follows:

1. On November 29, 2016 Defendant NRT moved to Deposit Funds under Rule 67. Thereafter, on December 13, 2016, Plaintiff filed his brief in Opposition.

2. Under Local Rule 7.1(g), reply briefs are not favored and should be filed only in exceptional circumstances. Similarly, under this Court’s case management procedures, reply briefs are strongly discouraged and should be filed only in exceptional circumstances.

3. Defendant seeks to further discuss *Fulton*, a case that forms the basis for and which was discussed in detail in Defendant’s initial motion. *Fulton* is a non-binding opinion on this Court which directly conflicts with the United States Supreme Court decision in *Campbell-Ewald v. Gomez*, 136 S.Ct. 663 (2016) and the recent 7th Circuit decision in *Chapman v. First Index*, 796

F. 3d 783 (7th Cir. 2015) reversing *Damasco v. Clearwire Corp.*, 662 F. 3d 891, 895 (7th Cir. 2011).

4. Defendant has not met its burden to show the “exceptional circumstances” necessary for filing a Reply brief.

WHEREFORE, Plaintiff respectfully requests that the Court deny Defendant’s Motion for Leave to File Reply, deny Defendant’s Motion to Deposit Funds, and for any further relief the Court deems necessary.

Dated: December 18, 2016

Respectfully submitted,

HOLLAND LAW FIRM

By: /s/ R. Seth Crompton

R. Seth Crompton

300 N. Tucker, Suite 801

St. Louis, MO 63101

Phone: (314) 241-8111

Facsimile: (314) 241-5554

Email: scrompton@allfela.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that, on December 18, 2016, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties to this action.

HOLLAND LAW FIRM

By: /s/ R. Seth Crompton